IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 587 (S/B) of 2003

Dr. Vindhyeshwari Prasad Pandey,
S/o Late Sri Bhairab Datt Pandey,
R/o Pant Bhawan, Balrampur Compound,
P.O. Mallital, Nainital ... Petitioner

Versus

1. Chancellor, Kumaon University, Nainital
2. Vice Chancellor, Kumaon University, Nainital
3. Registrar, Kumaon University

.... Respondents

Sri Gopal Narain, learned counsel for the petitioner.
Sri L.P. Naithani, Senior Advocate assisted by Sri B.D. Upadhyay, learned counsel for the respondents.

Hon'ble P.C. Verma, J.
Hon'ble B.C. Kandpal, J.

By means of this writ petition, the petitioner has prayed for writ of certiorari quashing the impugned order dated 29.11.2003 passed by Registrar, Kumaon University-Respondent No.3.

2. According to the petitioner, the short controversy involved in the writ petition is that despite the allocation of the petitioner for the post of Research Associate, the petitioner's case is not being considered for payment of salary against that post for which the petitioner is working in the same pay scale as per Rules in the project named as *"Super Conductivity Programme"* which was earlier conducted by University Grants Commission and now which is being conducted by State Government.

3. Sri L.P. Naithani, learned Senior counsel appearing on behalf of the University seriously disputed this fact and submitted that the representation of the petitioner under

Section 68 of the U.P. State Universities Act, 1973 is pending before the Chancellor, which is contained in Annexure No.32 to this writ petition.

4. In this case, the factual controversy is involved, therefore, we relegate the petitioner to get the representation decided first and then if this grievance is not redressed, then it will be open or him to challenge the order of the Chancellor before this Court.

5. Since the petitioner has availed the remedy under the Statute and has also the writ petition, hence the petitioner cannot be allowed to invoke both the forums. Therefore, we dispose of this petition with the direction that the Chancellor shall decide the representation of the petitioner contained in Annexure No.32 to this writ petition. It is also provided that if any fresh representation is made to the Chancellor by the petitioner, the same shall be decided by a speaking order after hearing both the parties within a period of three months from the date of production of certified copy of this order.

6. However, it is made clear that if the petitioner has to make any representation, he shall make the same along with the certified copy of this order and the entire record of this writ petition.

7. Subject to above, the writ petition is disposed of finally.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

23.02.2006
Rajeev Dang